

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)
SEATTLE IRON AND METALS CORP.,)
Appellant,)
vs.)
PUGET SOUND AIR POLLUTION)
CONTROL AGENCY,)
Respondent.)

PCHB No. 243

FINDINGS OF FACT,
CONCLUSIONS AND ORDER

This matter, the appeal of a \$50.00 civil penalty for an alleged violation of respondent's outdoor burning regulations, came before the Pollution Control Hearings Board (Walt Woodward, hearing officer) in respondent's Seattle offices at 3:00 p.m., February 22, 1973.

Appellant was represented by its operations manager, Irving Sidell; respondent appeared through its counsel, Keith D. McGoffin. Evan Aaron, Seattle court reporter, recorded the proceedings.

Witnesses were sworn and testified. Exhibits were offered and admitted.

1 On the basis of testimony heard, exhibits examined and a review
2 of the transcript, the Pollution Control Hearings prepared Proposed
3 Findings of Fact, Conclusions and Order which were submitted to the
4 appellant and respondent on April 13, 1973. No objections or exceptions
5 to the Proposed Findings, Conclusions and Order having been received,
6 the Pollution Control Hearings Board makes and enters the following:

7 FINDINGS OF FACT

8 I.

9 Appellant operates a scrap metal plant at 2955 - 11th Avenue
10 Southwest on Harbor Island, Seattle, King County. In dismantling old
11 cars at the plant, cutting torches frequently cause car body fires.
12 The plant has developed a fire fighting system to extinguish these
13 fires, including the lifting of the burning car with a crane hoist to
14 submerge the car in a large water tank.

15 II.

16 In response to a complaint relayed to him by radio at 10:06 a.m.,
17 October 26, 1972, an inspector on respondent's staff arrived outside of
18 appellant's plant 24 minutes later and observed smoke from a smoldering
19 car body fire. He issued Notice of Violation No. 6903 to appellant,
20 citing an alleged violation of Section 9.02 of respondent's Regulation I.
21 In connection therewith, Notice of Civil Penalty No. 517 in the amount
22 of \$50.00 subsequently was served on appellant. That penalty is the
23 subject of this appeal.

24 III.

25 Section 9.02 of respondent's Regulation I makes it unlawful to
26 cause or allow an outdoor fire for the purpose of salvage or reclamation

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1 of materials.

2 IV.

3 The inspector saw no attempt being made to extinguish the fire
4 and noted this on the violation notice. His line of vision, however,
5 was obstructed by a fence and piles of scrap metal. Appellant, which
6 contends efforts were made to extinguish the fire, was handicapped in
7 this by an inexperienced and slow crane operator, temporarily replacing
8 the regular operator who was ill.

9 From these Findings, the Pollution Control Hearings Board comes
10 to these

11 CONCLUSIONS

12 I.

13 Appellant was in violation of Section 9.02 of respondent's
14 Regulation I on October 26, 1972.

15 II.

16 The question is whether appellant was trying to extinguish the
17 fire. To say that it was is not to cast doubt on the inspector's
18 veracity; he may not have been able to see efforts being made to put
19 out the fire.

20 III.

21 The \$50.00 penalty, being one-fifth of the maximum allowable
22 amount which may be levied for a violation, is not unreasonable yet
23 more leniency is indicated.

24 THEREFORE, the Pollution Control Hearings Board makes this

25
26
27 FINDINGS OF FACT,
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ORDER

The appeal is denied, and appellant is directed to pay respondent \$25.00, the balance of \$25.00 to be suspended pending no similar violations for six months from the date of this Order.

DONE at Lacey, Washington this 5th day of June, 1973.

POLLUTION CONTROL HEARINGS BOARD

Walt Woodward
WALT WOODWARD, Chairman

James T. Sheehy
JAMES T. SHEEHY, Member

W. A. Gissberg
W. A. GISSBERG, Member

FINDINGS OF FACT,
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